REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Applicants appreciate the acknowledgement of allowable subject matter in claims 4 and 7.

By the foregoing amendment, claims 1 and 2 have been canceled. Thus, claims 3-7 are currently pending in the application and subject to examination.

Rejections Under 35 U.S.C. § 102(e)

In the Office Action mailed June 14, 2005, claims 1 and 2 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,624,671 to Fotouhi (hereinafter "Fotouhi"). It is noted that claims 1 and 2 have been canceled. Thus, the rejection of claims 1 and 2 under 35 USC § 102(e) is rendered moot.

Rejections Under 35 U.S.C. § 103(a)

In the Office Action mailed June 14, 2005, claims 3, 5 and 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fotouhi in view of U.S. Patent No. 6,236,270 to Takeuchi (hereinafter, "Takeuchi"). The Applicants hereby traverse this rejection, as follows.

The Office Action asserts that Fotouhi discloses all of the limitations of claim 3, with the exception of a third transistor of which a control electrode is connected to a first electrode of the power transistor and of which a second electrode is connected to a control electrode of the second transistor. Takeuchi

is cited as allegedly curing the defects that exist in Fotouhi. In making this rejection, the Office Action states:

> Regarding claim 3, figure 4A of Fotouhi includes all the limitations of claim 3, except for the limitation that there is a transistor coupled to the power transistor (30) and to the second transistor (M31). Figure 1 of Takeuchi shows an op-amp comprising only two PMOS transistors. Therefore, it would have been obvious to an artisan having skills in the art to replace the op-amp (A) of the present application with the op-amp taught by Takeuchi for providing a simple op-amp comprising only two transistors, thus, the fabrication cost is reduced. By the replacement, the third transistor (10) has a gate connected to the control electrode is connected to a first electrode of the power transistor (Ml 9) and of which a second electrode is connected to a control electrode of the second transistor (M31), wherein the second transistor outputs, at a first electrode thereof, a current signal proportional to a current flowing through the power transistor (col. 7 lines 1-12).
>
> Regarding claims 5 and 6, the second (NMOS, M31) and third transistors (PMOS, 10) are transistors of opposite polarities and the second and third transistors are considered to be identical and to have the same gate-source voltages. The second transistor (M31) and the first transistor (M30) are all NMOS transistors.

Office Action of June 14, 2005, at pp.3-4.

The Applicants respectfully submit that Takeuchi's transistor 10, illustrated in Fig. 2, is not a PMOS transistor, but an NMOS transistor. The Applicants further submit that the operational amplifier of Takeuchi shown in Fig. 1 includes eight (8) transistors, as disclosed by Takeuchi at col. 3, lines 36-38, and that of Fig. 2 includes fourteen (14) transistors, as disclosed by Takeuchi at col. 1, lines 14-20. Moreover, the Applicants submit that the circuit shown in Fig. 1 of Takeuchi could not function as an operational amplifier if it lacked a transistor,

such as the NMOS transistor 36, serving as a constant current source. The Applicants therefore submit that neither Fotouhi nor Takeuchi, alone or combined, discloses or suggests each and every feature recited in claim 3.

Furthermore, the Applicants submit that the combination of Fotouhi and Takeuchi, and the rejection based thereon, are improper.

It is well established law that two criterion for establishing a *prima facie* case of obviousness are that there must be some suggestion or motivation to modify the reference or to combine reference teachings, and that there must be a reasonable expectation of success upon making the suggested combination. MPEP § 2143.

It is equally well established law that the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and **not in the applicant's disclosure.** *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). *Also see id.*

When applying 35 USC § 103, a tenet of patent law that must be adhered to is "[t]he references must be viewed **without the benefit of impermissible hindsight vision afforded by the claimed invention**" (emphasis added). *Id. Also see Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

Furthermore, MPEP § 2141.01.III states "the requirement 'at the time the invention was made' is to avoid impermissible hindsight," and MPEP § 2145 ¶ X.A states "so long as [any judgment on obviousness] takes into account **only** knowledge which was within the level of ordinary skill in the art at the time the

claimed invention was made and **does not include knowledge gleaned only from applicant's disclosure**, such a reconstruction is proper." (Emphasis added.) *In re McLaughlin* 443 F.2d 1392, 1395, 170 USPQ 209, 212 (CCPA 1971).

Since the Office Action explicitly bases the rejection on a combination of Takeuchi and teachings taken directly from the present invention, e.g., "it would have been obvious to an artisan having skills in the art to replace the op-amp (A) of the present application with the op-amp taught by Takeuchi" (Office Action, p. 3), the Applicant respectfully submits that the asserted reason for rejection is a reconstruction based on knowledge gleaned only from the Applicants' disclosure in combination with cited prior art. This is clearly an improper combination. Accordingly, the rejection of claims 3, 5 and 6 under 35 USC § 103(a) is improper, and withdrawal of the rejection is requested.

For at least these reasons, it is respectfully submitted that claims 3, 5 and 6 are allowable over the cited art of record.

Conclusion

In view of the above, it is respectfully submitted that claims 3-7 are in condition for allowance and a Notice of Allowability is earnestly solicited.

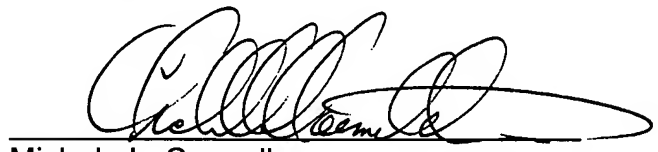
Should the Examiner determine that any further action is necessary to place this application into better form, the Examiner is invited to contact the undersigned representative at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of time. The Commissioner is

hereby authorized to charge any fee deficiency or credit any overpayment associated with this communication to Deposit Account No. 01-2300 referencing client matter number 103213-00071.

Respectfully submitted,

Arent Fox, PLLC



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